

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/12/2021
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL KANE, WILLIAM CASTRO,	:	
MARGARET CHU, HEATHER CLARK,	:	
STEPHANIE DI CAPUA, ROBERT	:	
GLADDING, NWAKAEGO NWAIFEJOKWU,	:	
INGRID ROMERO, TRINIDAD SMITH,	:	21-CV-7863 (VEC)
AMARYLLIS RUIZ-TORO,	:	
	:	
Plaintiffs,	:	<u>ORDER</u>
-against-	:	
	:	
BILL DE BLASIO, IN HIS OFFICIAL	:	
CAPACITY AS MAYOR OF THE CITY OF	:	
NEW YORK; DAVID CHOKSHI, IN HIS	:	
OFFICIAL CAPACITY OF HEALTH	:	
COMMISSIONER OF THE CITY OF NEW	:	
YORK; NEW YORK CITY DEPARTMENT OF	:	
EDUCATION,	:	
	:	
Defendants.	:	
-----X		

VALERIE CAPRONI, United States District Judge:

WHEREAS on October 12, 2021, the parties appeared for a hearing on Plaintiffs' application for a preliminary injunction;

IT IS HEREBY ORDERED that for the reasons stated on the record, Plaintiffs' application for a preliminary injunction is DENIED.

IT IS FURTHER ORDERED that the parties must submit supplemental briefing on the question of whether Plaintiffs have standing to bring as-applied challenges to the DOE Vaccine Mandate as applied by the Arbitration Awards. Supplemental briefing must address, at a minimum, whether, when there is no claim that the union breached its duty of fair representation, an individual employee represented by a union has standing to challenge a process dictated by an arbitrator following an arbitration proceeding to which the union and the employer were the only parties. The briefing must also address whether Plaintiffs' as-applied challenges are ripe for

judicial review, including whether Plaintiffs are required to bring proceedings pursuant to Article 75 of the New York Civil Practice Law & Rules. The parties' briefs are not limited to those two topics; the Court acknowledges that there are likely additional issues that pertain to the question of whether Plaintiffs have standing to bring their as-applied challenges.


IT IS FURTHER ORDERED that Plaintiffs' supplemental brief is due no later than **Tuesday, October 26, 2021**, and must not exceed 25 double spaced pages; Defendants' response brief, also limited to 25 double spaced pages, is due no later than **Tuesday, November 9, 2021**, and Plaintiffs' reply, limited to 10 double spaced pages, is due no later than **Tuesday, November 16, 2021**. Following a review of the parties' papers, the Court will determine whether a hearing is necessary.

IT IS FURTHER ORDERED that Plaintiffs' counsel, Mary Holland, must file a notice of appearance on the docket by no later than **Friday, October 15, 2021**.

IT IS FURTHER ORDERED that all other deadlines in this case are adjourned *sine die*, including Defendants' time to answer, move, or otherwise respond to the Complaint. The initial pre-trial conference, currently scheduled for November 12, 2021 at 2:00 P.M. and the November 4, 2021 deadline to file joint pre-conference submissions are CANCELED.

**SO ORDERED.**

**Date: October 12, 2021**  
**New York, New York**

  
**VALERIE CAPRONI**  
**United States District Judge**